

**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN  
THE STATE OF MONTANA  
MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN  
SERVICES  
MONTANA CHEMICAL DEPENDENCY CENTER  
AND  
MONTANA NURSES ASSOCIATION  
LOCAL UNIT #36, AFL-CIO  
  
2009-2011**

# **COLLECTIVE BARGAINING AGREEMENT**

## **BETWEEN THE STATE OF MONTANA**

### **MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MONTANA CHEMICAL DEPENDENCY CENTER AND MONTANA NURSES ASSOCIATION, LOCAL UNIT #36, AFL-CIO**

#### **PREAMBLE**

**THIS AGREEMENT** is made and entered into this first day of July, 2009, between the State of Montana Department of Public Health and Human Services, Montana Chemical Dependency Center, hereinafter referred to as the "Employer" and the Montana Nurses Association Local Unit #36, AFL-CIO, hereinafter referred to as the "Union" or "Association". It is the intent and purpose of this Agreement to assure sound and mutually beneficial working relationships between the Employer and its employees, to provide an orderly and peaceful means of resolving grievances; to prevent interruption of work and interference with efficient operation of the facility; and to set forth herein a basic and complete agreement between the parties concerning terms and conditions of employment. It is understood the Employer is engaged in furnishing an essential public service which vitally affects health, safety, comfort, and general well-being of the public, and both parties hereto recognize the need for continuous and reliable service to the public.

#### **ARTICLE 1 RECOGNITION**

The Employer recognizes the Montana Nurses Association, Local Unit #36, AFL-CIO as the sole and exclusive bargaining agent for all employees within the bargaining unit at the Montana Chemical Dependency Center, defined and certified by the Montana State Board of Personnel Appeals.

#### **ARTICLE 2 UNION SECURITY**

**Section 1.** Employees covered by this Agreement shall not be required to become members of the Union but must, as a term and condition of employment, pay dues or a representation fee to the Union.

**Section 2.** Upon receipt of a written authorization from an employee subject to the terms of this Agreement, the Employer shall deduct from the employee's pay the

amount of current union dues, or a representation fee authorized by such employee for payment to the Union. Dues so collected shall be forwarded to the Union treasurer.

**Section 3.** All employees covered by the terms of this Agreement shall within 30 calendar days of the signing of this Agreement, pay dues or a representation fee to the Union. Employees who fail to comply with this requirement shall be discharged by the Employer within 30 calendar days after receipt of written notice by the Union.

**Section 4.** Changes in Union membership dues rate or representation fee will be certified to the Employer in writing by an authorized officer of the Union and shall be done at least 30 calendar days in advance of such change.

**Section 5.** The Employer, within 30 calendar days of the signing of this Agreement, shall present to the Treasurer of the Local Union a list of the names and addresses of all current employees covered by this Agreement, and shall update such list for all new hires and terminations.

**Section 6.** The Union will indemnify, defend, and hold the Employer harmless against any claim made and against any suit brought against the Employer, on account of any check-off of Union dues, or representation fee or for any provision of the Union security article.

### **ARTICLE 3**

#### **EMPLOYEE JOB SECURITY**

**Section 1.** All new employees shall be subject to a probationary period of 12 months or 2080 hours, whichever is greater, during which time the Employer will determine individual competency.

**Section 2.** After serving the probationary period no employee shall be disciplined without just cause.

**Section 3.** When an employee is called to an investigatory interview which the employee reasonably believes could result in discipline, the employee has the right to request a representative be present. Such rights shall not unduly delay the investigatory process.

### **ARTICLE 4**

#### **MANAGEMENT RIGHTS**

(In compliance with Montana Code Ann. § 39-31-303 (2007))

The Association shall recognize the prerogative of the agency to manage, direct, and control the business in all particulars, in such areas as but not limited to:

- 1). direct employees;
- 2). hire, promote, transfer, assign, and retain employees;
- 3). relieve employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient and non-productive;
- 4). maintain the efficiency of government operations;
- 5). determine the methods, means, job classification, and personnel by which the agency operations are to be conducted;
- 6). take whatever actions may be necessary to carry out the missions of the agency in situations of emergency; and
- 7). establish the methods and processes by which work is performed.

Such rights are retained by the Employer unless such rights are specifically relinquished in this Agreement.

## **ARTICLE 5**

### **UNION ACTIVITIES**

**Section 1.** Officials of MNA may have access to work areas of the facility where bargaining unit members are employed to conduct official Union business provided that permission is first obtained from the Facility Administrator or designee. They must not enter patient or other restricted areas and must not interrupt employees in the process of their duties. Such visits must be conducted during nurses' free time and rest periods.

**Section 2.** The internal business of the Union shall be conducted by the employees during their non-duty hours provided, however a designated Union representative and/or the grievant shall be allowed a reasonable amount of paid release time to pursue formal grievances.

**Section 3.** bulletin board will be provided by the Union and erected in a place mutually agreed upon by the Employer and the Union. This bulletin board will provide a posting place for matters pertinent to Union business, new position vacancies at the Montana Chemical Dependency Center, state and nationwide opportunities, election notices and results, Union meeting dates and other Union business.

**Section 4.** The Employer will allow the Union to hold regular or special meetings in a room designated by Management provided, sufficient notice is given by the Union and the room is not previously scheduled for use and does not interfere with the normal operation of the center.

**Section 5.** A Union official may inspect an employee's personnel file (other than medical) with written permission from the employee and only in the presence of a Management designee in an area designated by the Employer.

**Section 6.** An employee may inspect their personnel file at any time in the presence of a Management designee and in the area designated by the Employer. They may request a copy of any document therein. The Employer may assess a copy charge of ten cents per copy. Any disciplinary document placed into a personnel file shall first be discussed with the employee and the employee shall be provided a copy of the document prior to it being placed into the file.

## **ARTICLE 6** **HOLIDAYS**

**Section 1.** For pay purposes the following holidays shall be recognized in compliance with Section 1-1-216, MCA:

New Years Day .....	January 1
Martin Luther King, Jr. Day .....	Third Monday in January
Lincoln's and Washington's Birthdays .....	Third Monday in February
Memorial Day .....	Last Monday in May
Independence Day .....	July 4
Labor Day .....	First Monday in September
Columbus Day .....	Second Monday in October
Veteran's Day .....	November 11
Thanksgiving Day .....	Fourth Thursday in November
Christmas Day .....	December 25
General Election Day .....	In even-numbered years

## **ARTICLE 7** **JOB POSTING**

**Section 1.** When a newly created position or a vacated position within the bargaining unit represented by Local #36, MNA becomes available, Management will post the details of the position or positions on the designated Union bulletin board. The Union shall be provided with a copy of the posting upon request.

**Section 2.** The employee will make application to the appropriate supervisor or facility HR Specialist for the posted position before the closing date listed on the job posting. In no case shall the position be posted for less than seven calendar days.

## **ARTICLE 8**

### **GRIEVANCE & ARBITRATION PROCEDURE**

Having a desire to create and maintain harmonious labor relations between them, the parties, hereto agree that they will promptly attempt to adjust all complaints, disputes, controversies or other grievances arising between them involving questions of interpretation or application of terms and provisions of this Agreement. Classification grievances shall be processed through the Board of Personnel Appeals through its established procedures.

#### **Section 1. Grievance Steps**

**Step 1:** A grievance shall first be taken up with the employee or employees and their immediate supervisor, within seven calendar days of such grievance, with or without a Union representative present. The immediate supervisor shall have fourteen calendar days in which to respond to the grievance.

**Step 2:** If the grievance cannot be adjusted at Step 1, it shall be presented to the Facility Administrator or designee in writing within fourteen calendar days of the receipt of the Step 1 response. The Facility Administrator or designee shall have fourteen calendar days in which to respond to the grievance in writing.

**Step 3:** If no settlement can be reached at Step 2, it shall be presented in writing to the Director of the Department of Public Health and Human Services, or designee, within fourteen calendar days of the receipt of the written Step 2 response. The Director, or his/her designee, shall have thirty (30) calendar days in which to respond to the grievance in writing.

**Step 4:** Should the aggrieved employee or employees and the Association consider the decision of the Director to be unsatisfactory, the Association may notify the Director and the Chief of the State Office of Labor Relations, in writing, of its intention to have the grievance referred to arbitration. In such event, notice must be provided within fourteen calendar days of the receipt of the Step 3 response.

By mutual agreement, the time limits at any stage of the grievance procedure may be extended.

Within fourteen calendar days after such written notice of intention is delivered to the Director, the parties shall call on the Federal Mediation and Conciliation Service or the Board of Personnel Appeals to provide a list of seven (7) arbitrators.

Each party shall be entitled to strike three (3) names from the list in alternate order and the name so remaining shall be the arbitrator. A coin toss shall be used to determine who shall strike the first name. The arbitrator shall render a decision as soon as possible after the close of the hearing or submission of post hearing briefs.

Each party shall share equally the cost of the impartial arbitrator. In the event one of the parties wants transcripts from the proceedings of the arbitration, the party requesting the transcript shall pay all cost. If each party requests transcripts, they shall equally share the cost.

During the processing of any matter under this or the preceding steps, the Association agrees not to strike, render unfair reports, or cause slow downs, and the Employer agrees not to lock out employees represented by the Association.

Any failure or refusal to abide by the terms of this grievance and arbitration procedure shall constitute a waiver by the party who breaches the Agreement of the rights and constraints created by the above grievance and arbitration clause.

No arbitrator shall have the power to add to, detract from, or modify the terms of this Agreement.

## **ARTICLE 9**

### **WORKING CONDITIONS**

#### **Section 1. Work Periods.**

- a. Work Day: A work day normally consists of a minimum of eight (8) hours in any twenty-four (24) hour period. Alternate work schedules may be developed and implemented by the union and the employer.
- b. Work Week: Forty (40) hours shall constitute a work week.
- c. Shifts: The shift for regular RN positions will not be on an alternating basis, except by agreement between the employee and the Employer. Positions designated as "flex" may alternate between shifts.
- d. The employer may make temporary changes in bargaining unit employees' hours of work and days off to meet staffing requirements. Employer will give as much advance notice as possible regarding temporary schedule changes; however, it is understood that advance notice may not be possible in emergency situations

**Section 2. Meals and Meal Period.** An uninterrupted thirty (30) minute lunch break will be scheduled for each employee. In the event an employee is not effectively released from work for the entire thirty (30) minute lunch period, the employee shall be compensated for the entire thirty (30) minutes. Employees who elect to take their lunch

at the facility may receive a free meal but will not be compensated unless they are on scheduled work time.

**Section 3. Breaks.** Each employee will have a fifteen (15) minute break the first half of the workday, and a fifteen (15) minute break the second half of the workday.

**Section 4. Mandatory Meetings.** The Employer may require the employee to attend certain meetings. The Employer agrees to schedule such meetings during regular working hours whenever possible.

**Section 5. Pay.** Pay will be in accordance with Addendum A of this Agreement.

## **ARTICLE 10** **LEAVES**

**Section 1. Jury and witness duty.** Employees summoned to serve as jurors or witnesses shall be granted leave in accordance with statute. Employees answering subpoenas for a civil or criminal cause in connection with their official duties will be compensated as provided for in statute.

**Section 2. Sick leave.** Employees shall be granted sick leave as follows:

**Subsection 1.** Notice Notification of absence because of illness shall be given as soon as possible to either the immediate supervisor or to the individual designated to receive such calls. If the employee fails to give such notification, the absence may be charged to leave without pay, and may be subject to disciplinary action. Absence in excess of one shift without notice to the Employer from the employee shall constitute just cause for immediate discharge, unless failure to give such notification was due to circumstances beyond the control of the employee.

**Subsection 2.** Sick leave exhaustion. Sick leave used must not exceed the amount accrued by the employee. If an employee is ill and has exhausted all sick leave credits, other accrued leave may be used.

**Subsection 3.** Employees who become ill on vacation. In the event an employee on annual leave becomes ill, the employee shall be afforded the right to change annual leave to sick leave and to use available sick leave credits upon furnishing the Employer acceptable medical certification.

**Subsection 4.** Doctor's certification. The Employer may require a doctor's certification to substantiate sick leave usage.

**Subsection 5.** Holidays during sick leave. In the event that a holiday falls when an employee is on sick leave, the employee shall be changed from sick leave status to



holiday status.

**Subsection 6.** Sick leave payout. An employee who terminates employment with the agency is entitled to a lump-sum payment equal to one-fourth (1/4) of the pay (or a like amount deposited in an authorized VEBA account) attributed to the accumulated sick leave, however, abuse of sick leave may be cause for dismissal and forfeiture of the lump-sum payments provided for in this Section.

**Section 3. Annual leave.** Employees shall earn leave credits as follows:

**Rate Earned.** Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

<u>Years of Employment Credit</u>	<u>Working Days</u>
1 day through 10 years .....	15
10 years through 15 years .....	18
15 years through 20 years .....	21
20 years on .....	24

**Section 4. Emergency leave.** In accordance with sick leave policy, accrued and available sick leave will be allowed for necessary attendance to the illness of the Employee's immediate family until other attendance can be reasonably attained, to attend a funeral in the immediate family, to receive medical, dental or eye examination, or for other disability related emergencies. Absence in excess of one shift without notice to the Employer from the employee shall constitute just cause for immediate discharge, unless the failure to give such notification was due to circumstances beyond the control of the employee.

**Section 5. Military Leave** Military leave shall be granted in accordance with statute.

**Section 6. Business Leave.** The President and Vice-President of the Local Union may be granted annual leave, accrued compensatory leave time, or if accrued time is not available, leave without pay, to attend the annual convention of the MNA, AFL-CIO.

## **ARTICLE 11**

### **SENIORITY**

**Section 1.** The Employer shall award newly created or vacated positions within the bargaining unit represented by Local #36, MNA, AFL-CIO on the basis of qualifications, capabilities, experience and seniority.

**Section 2.** Seniority means length of continuous service in the bargaining unit since the last date of hire. If seniority dates are the same, then seniority shall be determined

each time the need arises to break a tie through a drawing of names in which the first name drawn temporarily gains seniority.

- a. No permanent employee shall be separated while there are temporary employees serving in the same occupational job title.
- b. An employee who is scheduled to be laid off shall have the right to return to a formerly held classification as a Registered Nurse providing seniority accrued is greater than any employee presently assigned therein.
- c. An employee's seniority date will not be changed because of disciplinary suspensions.

### **Section 3. Lay-off and Re-employment**

- a. Lay-offs will be in order of seniority. The employee with the least seniority will be the first released. Rehire will be in the reverse order: i.e., that employee with the most seniority will be the first rehired. Ten days notice will be given in the event of lay-off via certified mail.
- b. In the case of rehire an employee who has been notified to return to work but fails to notify the Employer of their intent to continue employment within seven calendar will be considered to be terminated.

**Section 4.** To be absent from the job due to a leave of absence without pay exceeding fifteen (15) calendar days will be considered lost time for purposes of seniority; however, previous service within a covered position in the bargaining unit shall count toward seniority. The Union will be responsible for informing the Employer of a change in an employee's seniority date in following this provision.

**Section 5.** A seniority roster shall be maintained by the Employer. A copy shall be provided to the Union upon written request. A seniority roster shall be provided once annually by Management and more often by mutual agreement.

**Section 6.** Seniority shall be forfeited by discharge for cause or voluntary termination.

## **ARTICLE 12**

### **LABOR MANAGEMENT COMMITTEE**

**Section 1.** The parties agree to form a joint Labor Management Relations Committee.

The Committee shall be constituted as follows:

- a. Two members from the Union designated in writing.
- b. Two members designated by the Employer.

**Section 2.** The purpose of the Committee shall be to address any problems of mutual concern arising from the administration of this Agreement or any other concerns with respect to the operation of the Montana Chemical Dependency Center. It is understood that this Committee shall not be used to replace the grievance procedure.

**Section 3.** The Committee shall meet quarterly or by mutual consent. At least one week prior to any meeting the parties agree to submit an agenda in writing. Meetings may be cancelled by mutual consent.

### **ARTICLE 13** **NO STRIKE NO LOCKOUT**

**Section 1.** During the term of this Agreement, neither the Union nor its agents or representatives will cause, sanction or take part in any strike, sympathy strike, or any other interference with the operation of the Employer's business, except as provided in Article 15 and in accordance with MCA 39 –32 –110.

**Section 2.** During the term of this Agreement, there shall be no lockouts by the Employer.

### **ARTICLE 14** **SEVERABILITY**

**Section 1.** In the event that any provision of this Agreement shall be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not invalidate the entire Agreement, it being the expressed intention of the parties hereto that all other provisions not declared invalid or unenforceable shall remain in full force and effect. Either party may initiate negotiations on the provision declared invalid.

### **ARTICLE 15** **TERM OF AGREEMENT**

**Section 1.** This Agreement is effective as of the 1st day of July 2009 and shall remain in full force and effect through the 30th day of June, 2011.

**Section 2.** Should either party seek to modify this Agreement, it shall give written notice of such intention not less than ninety (90) days prior to the expiration date of this Agreement. With mutual agreement, negotiations may commence at any time thereafter.

**Section 3.** The Union shall have the right to engage in concerted activities after

December 31, 2011 for matters pertaining to wages and economic benefits in the 2012-2013 biennium in accordance with Article 13.

**ARTICLE 16.**  
**ENTIRE AGREEMENT**

**Section 1.** The parties acknowledge that during negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

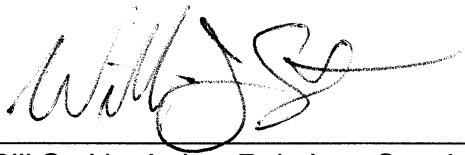
Therefore, the Employer and the Union for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter specifically referred to or covered by this Agreement.

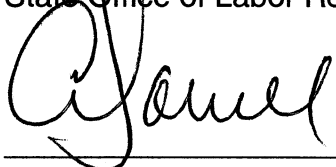
Executed and entered into this 22<sup>nd</sup> day of July 2010

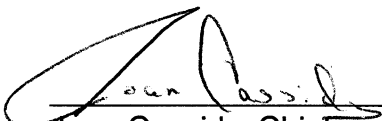
FOR: State Of Montana  
Department of Public Health and  
Human Services  
Montana Chemical Dependency Center

FOR: Montana Nurses Association  
Local Unit #36, AFL-CIO

  
\_\_\_\_\_  
Paula Stoll, Chief  
State Office of Labor Relations

  
\_\_\_\_\_  
Bill Smith, Labor Relations Specialist  
Montana Nurses Association

  
\_\_\_\_\_  
Anna Whiting Sorrell, Director  
Department of Public Health and  
Human Services

  
\_\_\_\_\_  
Joan Cassidy, Chief  
Chemical Dependency Services

## **Addendum A**

### **Montana Nurses Association, Local # 36 and MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES Montana Chemical Dependency Center**

This agreement represents the parties' full and complete agreement for all provisions of the Broadband Pay Plan for the term of this contract.

**Section 1. Occupational Pay ranges.** Registered nurses will be paid in accordance with the Department of Administration 2006 market analysis. The occupational pay range effective October 1, 2007 for Pay Band 6 RN's is:

<u>Job Title</u>	<u>Pay Band</u>	<u>Entry</u>	<u>Market</u>	<u>Maximum</u>
Registered Nurse	6	\$42,366	\$52,920	\$63,504

Effective October 1, 2007, no employee will be paid less than 80% of the market rate above. These market rates will be in effect for the term of this agreement.

**Section 2. Lump-sum Payment.** All full-time employees whose base pay is \$45,000 or less annually will receive a one-time lump-sum payment of \$450 for the first full pay period after July 1, 2009. All part-time employees who are regularly scheduled to work 20 hours or more per week and whose base pay is \$21.635 per hour or less will receive a one-time lump-sum payment of \$225 for the first full pay period after July 1, 2009.

**Section 3. Disciplinary Action.** Any employee with formal written disciplinary action in their file will not be eligible for an increase in Section 3 and 4 until the disciplinary letter is removed from his/her file.

**Section 4. Longevity.** All calculations are base rates and not inclusive of longevity.

**Section 5. Hiring rates.** Employees new to state government will typically be hired at the entry for the occupation. In determining a new employee's hiring rate above entry, the Division Administrator, or designee, shall consider criteria such as: the employee's job-related qualifications and competencies; existing salary relationships within the job class, band and work unit; the Division's ability to pay; and the competitive labor market.

**Section 6. Strategic Pay.** Pay awarded to attract and retain key employees with competencies critical or vital to achievement of the Department's mission or strategic goals. The Department may consider strategic pay on a case-by-case basis to address difficulties in recruitment and retention. All strategic pay adjustments require prior approval of the Director of DPHHS.

**Section 7. Situational Pay.** Situational pay may be awarded based on unusual or unexpected circumstances that occur regarding vacancies, additional workload, special projects on a temporary bases, or serving in an acting lead worker or supervisory capacity. The Department may consider situational pay on a case-by-case basis.

## Table of Contents

Article	Page
ARTICLE 1 RECOGNITION .....	2
ARTICLE 2 UNION SECURITY .....	2
ARTICLE 3 EMPLOYEE JOB SECURITY .....	3
ARTICLE 4 MANAGEMENT RIGHTS .....	3
ARTICLE 5 UNION ACTIVITIES .....	4
ARTICLE 6 HOLIDAYS .....	5
ARTICLE 7 JOB POSTING .....	5
ARTICLE 8 GRIEVANCE & ARBITRATION PROCEDURE .....	6
ARTICLE 9 WORKING CONDITIONS .....	7
ARTICLE 10 LEAVES .....	8
ARTICLE 11 SENIORITY .....	9
ARTICLE 12 LABOR MANAGEMETN COMMITTEE .....	10
ARTICLE 13 NO STRIKE NO LOCKOUT .....	11
ARTICLE 14 SEVERABILITY .....	11
ARTICLE 15 TERM OF AGREEMENT .....	11
ARTICLE 16.ENTIRE AGREEMENT .....	12
ADDENDUM A .....	13